



9110-04-P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket No. USCG-2012-0736]

RIN 1625-AA00

Safety Zone: America's Cup World Series Regattas, San Francisco
Bay; San Francisco, CA

AGENCY: Coast Guard, DHS.

ACTION: Temporary interim rule.

SUMMARY: The Coast Guard is establishing a safety zone for sailing regattas to be conducted on the waters of San Francisco Bay adjacent to the City of San Francisco waterfront in the vicinity of the Golden Gate Bridge and Alcatraz Island. This rule will regulate the on-water activities associated with 2012 America's Cup World Series regattas scheduled for October 2-3, 2012. This safety zone is established to ensure the safety of mariners transiting the area from the dangers associated with the sailing events. Unauthorized persons or vessels are prohibited from entering into, transiting through, or remaining in the safety zone without permission of the Captain of the Port or their designated representative.

DATES: This rule is effective from 12:30 p.m. on October 2, 2012 until 4:30 p.m. on October 3, 2012.

Comments and related material must be received by the Coast Guard on or before [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

Requests for public meetings must be received by the Coast Guard on or before [INSERT DATE 20 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: Documents mentioned in this preamble are part of docket USCG-2012-0736. To view documents mentioned in this preamble as being available in the docket, go to <http://www.regulations.gov>, type the docket number in the "SEARCH" box and click "SEARCH." Click on Open Docket Folder on the line associated with this rulemaking. You may also visit the Docket Management Facility in Room W12-140 on the ground floor of the Department of Transportation West Building, 1200 New Jersey Avenue SE, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: If you have questions on this temporary rule, call or e-mail Lieutenant DeCarol Davis, U.S. Coast Guard Sector San Francisco; telephone (415) 399-7443 or e-mail at D11-PF-MarineEvents@uscg.mil. If you have questions on viewing the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone (202)366-9826.

SUPPLEMENTARY INFORMATION:

Table of Acronyms

ACRM	America's Cup Race Management
DHS	Department of Homeland Security

A. Public Participation and Request for Comments

We encourage you to participate in this rulemaking by submitting comments and related materials. All comments received will be posted without change to <http://www.regulations.gov> and will include any personal information you have provided.

1. Submitting comments

If you submit a comment, please include the docket number for this rulemaking, indicate the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation. You may submit your comments and material online at <http://www.regulations.gov>, or by fax, mail, or hand delivery, but please use only one of these means. If you submit a comment online, it will be considered received by the Coast Guard when you successfully transmit the comment. If you fax, hand deliver, or mail your comment, it will be considered as having been received by the Coast Guard when it is received at the Docket Management Facility. We recommend that you include your name and a mailing address, an e-mail address, or a telephone number in the body of your document so that we can contact you if we have questions regarding your submission.

To submit your comment online, go to <http://www.regulations.gov>, type the docket number (USCG-2012-0736) in the "SEARCH" box and click "SEARCH." Click on "Submit a Comment" on the line associated with this rulemaking.

If you submit your comments by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit comments by mail and would like to know that they reached the Facility, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period and may change the rule based on your comments.

2. Viewing comments and documents

To view comments, as well as documents mentioned in this preamble as being available in the docket, go to <http://www.regulations.gov>, type the docket number (USCG-2012-0736) in the "SEARCH" box and click "SEARCH." Click on Open Docket Folder on the line associated with this rulemaking. You may also visit the Docket Management Facility in Room W12-140 on the ground floor of the Department of Transportation West Building, 1200 New Jersey Avenue SE, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

3. Privacy Act

Anyone can search the electronic form of comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review a

Privacy Act notice regarding our public dockets in the January 17, 2008, issue of the Federal Register (73 FR 3316).

4. Public meeting

We do not now plan to hold a public meeting. But you may submit a request for one, using one of the methods specified under ADDRESSES. Please explain why you believe a public meeting would be beneficial. If we determine that one would aid this rulemaking, we will hold one at a time and place announced by a later notice in the Federal Register.

B. Regulatory History and Information

The Coast Guard is issuing this temporary interim rule without prior notice and opportunity to comment pursuant to authority under section 4(a) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). This provision authorizes an agency to issue a rule without prior notice and opportunity to comment when the agency for good cause finds that those procedures are "impracticable, unnecessary, or contrary to the public interest."

Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing a notice of proposed rulemaking (NPRM) with respect to this rule because publishing an NPRM would be impracticable and contrary to the public interest. The Coast Guard received notification of the sailing events on July 19, 2012 and the event would occur before the rulemaking process would be completed. Because of the dangers posed by the high speeds of the sailing vessels used during the America's Cup

event, the safety zone is necessary to provide for the safety of mariners transiting the area. For the safety concerns noted, it is in the public interest to have these regulations in effect during the event.

Under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the Federal Register. For the reasons stated above, delaying the effective date would be impracticable and contrary to the public interest.

C. Basis and Purpose

The legal basis for the proposed temporary rule is the Ports and Waterways Safety Act which authorizes the Coast Guard to establish safety zones (33 U.S.C sections 1221 et seq.).

In 2012, the City of San Francisco plans to host two America's Cup World Series regattas as part of a circuit of sailing events being conducted at other U.S. and international venues. The first San Francisco World Series regattas are scheduled to occur August 21-26, 2012. The second World Series regattas are scheduled to occur October 2-7, 2012 and will be held in conjunction with the San Francisco Bay Fleetweek events as per an official agreement made between the America's Cup Race Management (ACRM) and the Fleetweek program coordinators. This rule will regulate the on-water activities for the America's Cup World Series regattas taking place in October immediately prior to Fleetweek.

From October 2-3, 2012, this rule establishes a temporary safety zone for the sailing events on the waters of San Francisco Bay adjacent to the City of San Francisco waterfront. From October 4-7, 2012, America's Cup sailing events will occur inside of the regulated area established in the existing Fleetweek special local regulation, which is described in 33 CFR 100.1105(b)(2). This rule does not apply to the America's Cup sailing that will occur during Fleetweek. This temporary safety zone is established to ensure the safety of mariners transiting the area from the dangers associated with the sailing events.

D. Discussion of the Interim Rule

During the first two days of the America's Cup World Series regattas taking place in October, the Coast Guard will enforce a temporary safety zone in the navigable waters of San Francisco Bay bounded by a line beginning at position 37°48'43"N, 122°25'11"W at the eastern end of Fisherman's Wharf Breakwater, running east to position 37°48'43"N, 122°25'01"W, running north to position 37°49'07"N, 122°25'01"W, running northwest to position 37°49'14"N, 122°25'12"W located south of Alcatraz Island, running west to position 37°49'14"N, 122°27'13"W, running south to position 37°48'23"N, 122°27'13"W, running eastward along the City of San Francisco shoreline, along the Municipal Pier, east across the mouth of Aquatic Park cove to the Fisherman's Wharf breakwater then east along the breakwater (NAD 83). The World Series regattas regulated by this temporary safety zone are

scheduled to take place from 12:30 p.m. until 4:30 p.m. on October 2, 2012 and October 3, 2012. Movement within marinas, pier spaces, and facilities along the City of San Francisco waterfront is not regulated by this rule. At the conclusion of the World Series regattas the safety zone shall terminate.

The effect of the temporary safety zone will be to restrict navigation in the vicinity of the America's Cup sailing events. Except for persons or vessels authorized by the Coast Guard Patrol Commander, no person or vessel may enter or remain in the restricted area. These regulations are needed to keep mariners and vessels away from the immediate vicinity of the high-speed sailing vessels participating in America's Cup.

E. Regulatory Analyses

We developed this rule after considering numerous statutes and executive orders related to rulemaking. Below we summarize our analyses based on these statutes and executive orders.

1. Regulatory Planning and Review

This rule is not a significant regulatory action under section 3(f) of Executive Order 12866, Regulatory Planning and Review, as supplemented by Executive Order 13563, Improving Regulation and Regulatory Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Executive Order 12866 or under section 1 of Executive Order 13563. The Office of Management and Budget has not reviewed it under those Orders.

We do not expect the rule to be significant because the safety zone is limited in duration and is limited to a narrowly tailored geographic area. In addition, although this rule restricts access to the waters encompassed by the safety zone, the effect of this rule will not be significant because the local waterway users will be notified via public Broadcast Notice to Mariners to ensure the safety zone will result in minimum impact. The entities most likely to be affected are waterfront facilities, commercial vessels, and pleasure craft engaged in recreational activities.

2. Impact on Small Entities

The Regulatory Flexibility Act of 1980 (RFA), 5 U.S.C. 601-612, as amended, requires federal agencies to consider the potential impact of regulations on small entities during rulemaking.

The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities. This rule may affect the following entities, some of which may be small entities: owners and operators of waterfront facilities, commercial vessels, and pleasure craft engaged in recreational activities and sightseeing, if these facilities or vessels are in the vicinity of the safety zone at times when this zone is being enforced. This rule will not have a significant economic impact on a substantial number of small entities for the following reasons:

(i) this rule will encompass only a small portion of the waterway for a limited period of time, and (ii) the maritime public will be advised in advance of this safety zone via Broadcast Notice to Mariners.

3. Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104-121), we want to assist small entities in understanding this rule. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact the person listed in the FOR FURTHER INFORMATION CONTACT, above. Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1-888-REG-FAIR (1-888-734-3247). The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

4. Collection of Information

This rule calls for no new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3520).

5. Federalism

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on State or local governments and would either preempt State law or impose a substantial direct cost of compliance on them. We have analyzed this rule under that Order and have determined that it does not have implications for federalism.

6. Protest Activities

The Coast Guard respects the First Amendment rights of protesters. Protesters are asked to contact the person listed in the "FOR FURTHER INFORMATION CONTACT" section to coordinate protest activities so that your message can be received without jeopardizing the safety or security of people, places or vessels.

7. Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531-1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of \$100,000,000 (adjusted for inflation) or more in any one year. Though this rule will not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

8. Taking of Private Property

This rule will not cause a taking of private property or

otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

9. Civil Justice Reform

This rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

10. Protection of Children

We have analyzed this rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and does not create an environmental risk to health or risk to safety that may disproportionately affect children.

11. Indian Tribal Governments

This rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

12. Energy Effects

This action is not a "significant energy action" under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use.

13. Technical Standards

This rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

14. Environment

We have analyzed this rule under Department of Homeland Security Management Directive 023-01 and Commandant Instruction M16475.1D, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321-4370f). Specifically, this event was analyzed as part of the environmental assessment for the 34th America's Cup (available at <http://www.americascupnepa.org/documents.html>, see p. 2-101, covering the exhibition from September 30 to October 3). Based on our analysis, the Coast Guard has concluded this action does not individually or cumulatively have a significant effect on the human environment. A copy of the Finding of No Significant Impact for this event is available in the docket.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, and Waterways.

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR Part 165 as follows:

PART 165- REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

1. The authority citation for part 165 continues to read as follows:

Authority: 33 U.S.C. 1226, 1231; 46 U.S.C. Chapter 701; 50 U.S.C. 191, 195; 33 CFR 1.05-1(g), 6.04-1, 6.04-6, and 160.5;

Pub. L. 107-295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1.

2. Add § 165.T11-515 to read as follows:

§165.T11-515 Safety Zone: America's Cup World Series Regattas, San Francisco Bay; San Francisco, CA

(a) Location. This temporary safety zone is established on the waters of San Francisco Bay located in the vicinity of the Golden Gate Bridge, Alcatraz Island, the City of San Francisco waterfront, and the Bay Bridge. Movement within marinas, pier spaces, and facilities along the City of San Francisco waterfront is not regulated by this rule. The safety zone will encompass the navigable waters of the San Francisco Bay bounded by a line beginning at position 37°48'43"N, 122°25'11"W at the eastern end of Fisherman's Wharf Breakwater, running east to position 37°48'43"N, 122°25'01"W ,running north to position 37°49'07"N, 122°25'01"W, running northwest to position 37°49'14"N, 122°25'12"W located south of Alcatraz Island, running west to position 37°49'14"N, 122°27'13"W, running south to position 37°48'23"N, 122°27'13"W, running eastward along the City of San Francisco shoreline, along the Municipal Pier, east across the mouth of Aquatic Park cove to the Fisherman's Wharf breakwater then east along the breakwater. All coordinates are North American Datum 1983.

(b) Enforcement Period. The zone described in paragraph (a) of this section will be enforced from 12:30 p.m. until 4:30 p.m. on October 2, 2012 and from 12:30 p.m. until 4:30 p.m. on October 3,

2012. The enforcement period may be curtailed earlier by the Captain of the Port (COTP). The COTP will notify the maritime community of periods during which this zone will be enforced via Broadcast Notice to Mariners in accordance with 33 CFR 165.7.

(c) Definitions. As used in this section, "designated representative" means a Coast Guard Patrol Commander, including a Coast Guard coxswain, petty officer, or other officer on a Coast Guard vessel or a Federal, State, or local officer designated by or assisting the COTP in the enforcement of the safety zone.

(d) Regulations. (1) Under the general regulations in 33 CFR Part 165, Subpart C, entry into, transiting or anchoring within this safety zone is prohibited unless authorized by the COTP or a designated representative.

(2) The safety zone is closed to all vessel traffic, except as may be permitted by the COTP or a designated representative.

(3) Vessel operators desiring to enter or operate within the safety zone must contact the COTP or a designated representative to obtain permission to do so. Vessel operators given permission to enter or operate in the safety zone must comply with all directions given to them by the COTP or a designated representative. Persons and vessels may request permission to enter the safety zone on VHF-23A or through the 24-hour Command Center at telephone (415) 399-3547.

Dated: August 17, 2012

Cynthia L. Stowe
Captain, U.S. Coast Guard
Captain of the Port San Francisco

[FR Doc. 2012-21919 Filed 09/05/2012 at 8:45 am; Publication
Date: 09/06/2012]